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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,981	10/09/2003	Richard M. Lehrer		8811

7590

02/23/2005

Ricahrd M. Lehrer
1 Prior Court
Palisades, NY 10964

EXAMINER

MAI, TRI M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,981

Applicant(s)

LEHRER, RICHARD M.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Applicant asserts that all claims readable on Group I. It appears that there are some claims set forth in 112, 2nd paragraph do not read on the elected species. Applicant must withdraw from further consideration if these claims do not read on the elected embodiment.

Failure to provide a complete response to the 112 rejections will not be considered as bona fide.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slit on the top and the connector is configured to extend through the slit and the bottom having a slit and the connector is configured to extend through must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings **will be held in abeyance**.

3. Claims 5-7, 9, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, it is unclear where is the slit on the top in the elected embodiment. Applicant must point out the slit on the top in the elected embodiment response to this Office Action.

Regarding claim 6, it is unclear where is the slit on the bottom in the elected embodiment. Applicant must point out the slit on the bottom in the elected embodiment response to this Office Action.

Regarding claim 7, it is unclear where is the hole on the elected embodiment. Applicant must point out the slit on the top in the elected embodiment response to this Office Action.

Regarding claim 9, it is unclear where the plurality of ribs being connected at a point below the top portion. Applicant must point out the connection point the elected embodiment response to this Office Action.

Regarding claim 11, it is unclear where are the bases connected together. Applicant must point out where the bases are connected to each other in the elected embodiment response to this Office Action.

Applicant must withdraw from further consideration if these claims do not read on the elected embodiment. Failure to provide a complete response to the 112 rejections will not be considered as bona fide.

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4. Claims 1, 3-6, 8-11, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Peck (1049910). Peck teaches a box having a plurality of ribs 20 secure to a plurality of bases 15 that are adhered to the bottom of the box. The ribs are selectively moveable between a storage position and a support position as shown in 1 and 2.

Regarding claim 3, the hole on the two outside ribs 20 are the slits as claimed.

5. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peck in view of either Wright (1083514) or Rhodes (861899). It would have been obvious to one of ordinary skill in the art to lock the connector against an outside of the box either by tying the string as shown in Rhodes or providing anchor 12 as shown in Wright to keep the ribs from folding back.

6. As best understood view of the 112 matters above, claims 1, 3, 4, and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esposito (4927073) in view of Meyers (4081125). Esposito teaches a box having a plurality of ribs 36 moveable between a storage position and a support position, the support position being substantially perpendicular relative to the bottom, and a connector 21 coupled to the plurality of ribs and configured to simultaneously move the plurality of ribs between the storage position and the support position, a connector coupled to the ribs and configured to extend from the inside of the box 24 to an outside of the box and mating with the box by tab 25 as shown in Fig. 3.

Esposito meets all claimed limitations except for the bases adhere to the bottom of the box. It would have been obvious to one of ordinary skill in the art to provide the bases 25a adhere to the box in Esposito as taught by Meyers to provide a more rigid partition.

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With respect to the method claims, it is submitted that the steps recited in the method does not read over the teachings in Esposito.

7. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
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